

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE THIRTIETH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION No: 10710 of 2004

Between:

I. Chandrasekhar, S/o. I.V.R. K. Murthy,
Under the Control of the Executive Engineer, BSNL, Civil Division No.III,
Chikkadapally, Hyderabad.

..... PETITIONER

AND

- 1 The Executive Engineer, BSNL, Civil Division No.III, Chikkadapally, Hyderabad.
- 2 The Superintendent Engineer, Telecom Civil Circle, BSNL, Chikkadapally, Hyderabad.
- 3 The Chief Engineer, Civil Zone, Triveni Complex, Hyderabad.
- 4 The Principal General Manager, Telecom, BSNL, Suryalok Complex, Hyderabad.
- 5 The Chief General Manager, Telecom, A.P. Circle, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue Writ, order or direction more in the nature of Certiorari calling for the records relating to the order in O.A.No.498/2002 dated 8-9-2003 and order in M.A.No.664/2003 in r.A.S.r.No.2908/2003 in O.A.No.498/2002 dated 3-12-2003 of the Hon'ble C.A.T. Hyderabad and quash the same and consequently declare that the petitioner is entitled for grant of temporary status on the basis of uninterrupted casual service from 23-6-1990 onwards for about 8 hours a day in terms of D.O.T order No. 269-10/89-STN-II, dated 7-11-1989 and subsequent orders on the subject with all consequential benefits like regularisation etc.

Counsel for the Petitioner: MR.CH.JAGANNADHA RAO

Counsel for the Respondent No.: MR.A.RAJASEKHAR REDDY

The Court made the following:

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ORAL ORDER (Per GB,J)

The writ petition is filed challenging the order dated 8.9.2003 passed by the Administrative Tribunal, Hyderabad in O.A.No.498/2002 and also the order dated 3.12.2003 passed by the Tribunal in M.A.No.664/2003 in RASR No.2908/2003 in O.A.No.498/2002.

2. The matter relates to regularization of part time casual labour into full time casual labour and consequential grant of temporary status.

3. The case of the petitioner is that though he has been working as casual labour since 1990 and fulfilled the requirement of working for 240 man-days in an year, he was not given temporary status. Therefore, he filed O.A. seeking appropriate relief. The Tribunal after directing the department to furnish necessary particulars, came to the conclusion that the petitioner did not complete the necessary man days so as to make his eligible for grant of temporary status and accordingly dismissed the O.A. Subsequently the petitioner filed petitions for review of the order of the Tribunal and the same were also dismissed. Therefore, the present writ petition is filed assailing the orders of the Tribunal.

4. The learned counsel for the petitioner submitted that the department has suppressed the material documents, which would establish that the petitioner has worked as casual labour for more than 240 days in each year from 1990. He further submitted that the petitioner could not produce the records, as he was only a casual

labour and he was only taking the wages as paid by the department. He submitted that under those circumstances, the burden is heavy on the department to establish that the petitioner was not engaged. Therefore, the learned counsel submitted that the order of the Tribunal is liable to be set aside.

5. We have heard both the learned counsel at length at this point.

6. It is the primary duty of the petitioner to establish that he worked more than 240 days in each year and then only he would be eligible for temporary status. But the petitioner himself stated that he worked from 1990 to 1998 only for few days as mentioned by him in the O.A.

7. Be that as it may. The Tribunal also called for the report from the respondents and satisfied that the petitioner did not complete the requisite man-days in an year. Under these circumstances, we do not find any illegality or irregularity in the order passed by the Tribunal. Hence, the writ petition is dismissed. No costs.

(G. BIKSHAPATHY, J.)

(B. SESHASAYANA REDDY, J.)

30.11.2004

AVS/ES

To

- 1 The Executive Engineer, BSNL, Civil Division No.III, Chikkadapally, Hyderabad.
 - 2 The Superintendent Engineer, Telecom Civil Circle, BSNL, Chikkadapally, Hyderabad.
 - 3 The Chief Engineer, Civil Zone, Triveni Complex, Hyderabad.
 - 4 The Principal General Manager, Telecom, BSNL, Suryalok Complex, Hyderabad.
 - 5 The Chief General Manager, Telecom, A.P. Circle, Hyderabad.
- 6 2 CD copies.